

Remarks

The Rejection of Claims 1-9 and 19-25 under 35 U.S.C. §103(a)

The Examiner rejected Claims 1-9 and 19-25 under 35 USC §103(a) as being obvious to one having ordinary skill in the art in view of U.S. Patent No. 5,535,052 (Jörgens), U.S. Patent No. 6,384,990 (Holdener et al.) and U.S. Patent No. 3,651,258 (Ammann). More specifically, the Examiner indicated that Jörgens discloses a shutter for a laser microscope controlled by means of a sensor, that Holdener et al. disclose a mechanical interruption device and that Amman illustrates that it is well known to use shutters with apertures for monitoring and detecting the interruption state of the shutter. Applicants respectfully traverse the rejection.

First, Jörgens does not teach, suggest or disclose an interruption device comprising means for monitoring whether the interruption device is actually operational. Rather, the sensors disclosed by Jörgens monitor the position of a reflecting mirror. (See Column 4, Lines 45-61) and not the operational state of a shutter device. In addition, there is no teaching, suggestion or motivation to combine his teachings with those of others to create the subject invention.

Second, the present application for patent claims benefit of German Patent DE 100 29 444.8, which was filed on June 21, 2000. U.S. Patent No. 6,348,990 (Holdener et al.) was filed on September 21, 2000, 3 months after German Patent No. 100 29 444.8 and thus, is not available as a prior art reference. Additionally, Holdener et al. merely disclose an optical element actuating device and does not contain a teaching, suggestion or motivation to create an interruption device comprising a sensor for monitoring the functional state of the interruption device. Finally, Holdener et al. do not disclose, teach, suggest or motivate one having ordinary skill in the art to combine their teachings with those of others to create the present invention.

Third, U.S. Patent No. 3,651,258 (Ammann) does not disclose, teach or suggest an interruption device for a laser microscope or a shutter device operatively arranged to prevent laser light from being viewed by the user of a microscope. Indeed, Ammann arguably discloses a shutter for interrupting the light of LED's of a high-speed printer. A printer is very different from a laser scanning microscope. Thus, there is simply no motivation for one having skill in the art of laser scanning microscopes, or microscopes for that matter, to select Ammann for combination with Jörgen and/or Holdener et al. to create the subject invention. Likewise, there is no teaching, suggestion or motivation contained in Amman to combine his teachings with those of others to create the subject invention. This assertion is supported by the fact that Ammann does not even share the same U.S. and International Art Classification as either Jörgens or Holdener et al. Nevertheless, even assuming, *arguendo*, that the art of laser microscopy and high-speed printers were analogous, Ammann merely discloses, "shutter position sensor 40 which locates shutter 22 with the help of a photocell 42," and does not actually disclose that the photocells detect light passing through the shutter apertures (see Column 4, Lines 28-30)). Indeed, photocells 42 could very well detect light reflected off of a mirror on the shutter.

Fourth, Claims 19-25 depend from non-obvious Claim 13, which is not identified as being rejected. Hence, by virtue of their dependency therefrom, Claims 19-25 are also non-obvious.

In sum, while the individual elements of the present invention may be found in the prior art, the simple fact remains that none of the references cited by the Examiner contain sufficient teaching, suggestion or motivation to make the combination propounded by the Examiner to create the present invention.

Reconsideration of the rejection is, thus, respectfully requested.

The Rejection of Claims 11-18 under 35 U.S.C. §103(a)

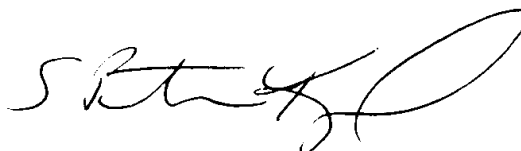
The Examiner rejected Claims 11-18 under 35 U.S.C. §103(a) as being obvious in view of Jörgens, Holdener et al., Ammann and U.S. Patent No. 4,764,002 (Wilson). More specifically, the Examiner indicated that it would have been obvious to create the momentum compensation system of the present invention in further view of the teachings of Wilson. Applicants respectfully traverse the rejection.

The invention disclosed by Wilson comprises movable "optical elements", such as mirrors or prisms, and a counterbalancing arm to stabilize the "optical elements" during movement (See Column 1, Lines 7-10; Column 3, Lines 16-19). However, Wilson does not disclose "optical elements" that comprise shutters and/or light interrupting devices. Additionally, the device disclosed by Wilson is operatively arranged such that its "optical elements" and counterbalancing arm pivot about a plurality of axes; Wilson does not disclose two shutter components pivoting about a common axis and operatively arranged to intersect a light beam path. Hence, in addition to our arguments set forth above with regard to the rejection of Claims 1-9 above, the references cited by the Examiner do not contain sufficient teaching, suggestion or motivation to make the combination propounded by the Examiner. Additionally, it is arguable that the "optical elements" referred to by Wilson even comprise shutters or light interruptive devices.

Conclusion

For the reasons set forth above, Applicants respectfully submit that the present application is now in condition for allowance, which action is courteously requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Peter Konzel', with a large, stylized loop at the end.

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